

**Minutes of Meeting
Grafton Planning Board
February 12, 2007**

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A regular meeting of the Grafton Planning Board was held on Monday, February 12, 2007 in Conference Room A at the Grafton Municipal Center, 30 Providence Road, Grafton, MA. Present for the meeting were Chairman Keith Regan, Vice-Chairman, Donald Chouinard, Clerk Richard McCarthy, Robert Hassinger, Peter Parsons and Associate Member Christophe G. Courchesne. Staff present was Town Planner, Stephen Bishop and Planning Assistant, Samantha Hobson.

Chairman Regan called the meeting to order at 7:02 p.m.

Mr. McCarthy read the legal notice and Chairman Regan opened the new public hearing for SP 2007-1 Industrial Tower & Wireless, LLC, 160R Upton Street; and the continued public hearing for SP 2006-5 Industrial Tower & Wireless, LLC, 51 Browns Road.

Mr. Courchesne recused himself due to a conflict of interest.

Present for the hearing were Sharon Horne, Thomas Lennon and Des Haggard of Industrial Tower & Wireless, LLC and David Maxson of Broadcast Signal Lab, Consultant to the Planning Board.

Chairman Regan stated there would be a new record for the 160R Upton Street site and any testimony taken will be on both public hearing records.

Mr. Bishop stated the purpose of the subsequent application was to submit an alternate application to the 51 Browns Road site for the Planning Board's consideration.

Chairman Regan suggested the Board procedurally move the Browns Road record over to the Upton Road record for consideration.

Ms. Horne agreed the motion was okay with Industrial Tower & Wireless, LLC.

MOTION by Mr. Hassinger, **SECOND** by Mr. Parsons, to include, by reference, relevant portions of Special Permit 2006-5 for 51 Browns Road in the record for Special Permit 2007-1 for 160R Upton Street. **MOTION** carried unanimously.

Ms. Horne presented a slide presentation of the balloon testing required for the 160R Upton Street site and proceeded to address all of the general requirements for the submission of a new application for a cell tower. Ms. Horne also reviewed the coverage needs and gaps shown on the submitted site analysis maps, showing their due diligence process for all the areas they have looked into as a possible site.

Ms. Horne stated they had considered sites at 39 George Hill Road; Pell property at Soap Hill & George Hill Road; Padula property at 155 George Hill Road; Hillside Meadows at 111 George Hill Road; Pease property at 34 Browns Road & Route 140; Lee Robinson for property at 135 Old Upton Road; William Robinson for property at 212 Upton Street and Noel property at 116 Upton Street. Ms. Horne added that they had tried to stay on higher areas for maximum coverage and within larger areas to meet set back requirements.

Mr. McCarthy stated that performing the balloon test 300 feet away from the site was a waste of time and did not give an accurate placement view of the tower.

Mr. Parsons stated it was not possible to make everyone happy in these situations, but that you must try to come up with the best possible scenario for all parties included.

Mr. Chouinard noted that site reconnaissance for the balloon test should have been prepared and scheduled earlier in the week rather than at the last minute on Saturday.

Mr. Hassinger pointed out the new presentation was a good summary of the due diligence done except for the Pell property, for which there is no closure for either side of the Pell property. Mr. Hassinger also added there were discrepancies in the information submitted with the application package regarding the west side of the ridge.

Mr. Maxson informed Mr. Hassinger the discrepancies could be a mismatch of information/coverage on the computed and practical charts.

Mr. Hassinger noted he was interested in the lowest level for the tower to provide a useful location for the applicant and then for any co-locations in order to provide for future screening of the tower. Mr. Hassinger also stated that although there were no structures within the 300 foot circle of lot lines, it is possible for future structures there and what assurances are available that this will not take place.

Mr. Lennon addressed the Board and stated that the Pell's property was a large parcel, they attempted to negotiate, but were unable to obtain a final determination for availability and a lot of the land was wet and not buildable.

Mr. Lennon stated the balloon test had been difficult to perform, but they had done the best to their ability, without being able to cut down trees or alter the property in any way. Mr. Lennon also noted they are not responsible for any future structures, only those existing on the property. Mr. Lennon added that with regard to the minimum height, they need to project what the future use will be and build and size the foundation for the projected height, while staying within the by-law.

Mr. Hassinger noted the letter from the Pells regarding the selling of property; the discrepancies in the application and the absence of an abutting town's tower location on the application map were all concerns/questions which were not adequately addressed.

Mr. Maxson stated the discrepancies were either that T-Mobile was not aware of the tower location or they were erroneous results from equipment.

Mr. Hassinger noted the Board has never approved a 150 foot tower, with 120 feet being the highest approved to date.

Mr. Maxson informed the Board that if a drive test is done accurately, the optimum height can be determined for the amount of carriers that can be added, thereby lessening the need for additional towers and getting the maximum coverage for the one tower.

Ms Horne added that details were submitted for 100, 125, and 147 foot towers and they had determined that the 147 foot tower was needed to obtain coverage to connect with the center of Grafton.

Chairman Regan asked Ms Horne to check on the grade elevations of the two sites.

Lisa Rice of 40 Browns Road mentioned some Town owned land behind the Casale property where Route 140 goes into Upton that had not been looked at.

Ms. Horne responded that they would need an RFP from the Town to consider the property, which was not something that was available to them.

Mr. Hassinger suggested that Ms. Horne ask the Town for a response concerning the land at Silver Lake to see if it is a viable place and meets the coverage needs.

Mr. Maxson noted that with regard to the balloon test concerns, which have been difficult to perform, that even at 300 feet away, an accurate position and height can be obtained if the proper simulation is done with cameras.

Craig Juelis of 44 Browns Road submitted pictures of the balloon test taken from his bedroom window. Mr. Juelis stated there is no guarantee from realtors that the tower proximity does not affect the house and property values of those abutting the tower area.

Mr. Bishop informed Chairman Regan that the grade elevations of the sites he had requested from Ms. Horne were 476 feet for Browns Road and 430 feet for Upton Street.

Mr. Parsons stated he empathized with Mr. Juelis about his valid concerns for his property values with regard to the tower view.

Mr. Hassinger suggested that Ms. Horne ask the Town for a response concerning the land at Silver Lake to see if it is a viable place and meets the coverage needs.

James Samsel of 36 Browns Road requested the Board afford the abutters an adequate balloon test.

Mr. Chouinard suggested that since the coverage chart showed only a few homes between Silver Lake and Upton for coverage, the Board should shorten the height of the Grafton

tower accordingly and have a tower in Upton pick up the remaining homes with their tower.

Mr. Lennon stated they already had a tower located in Upton.

Chairman Regan questioned whether to continue the public hearing and if another balloon test would be helpful.

Mr. Hassinger noted they should perform another balloon test to benefit the people on Browns Road.

Ms. Horne suggested they would perform another balloon test with only one balloon at the top height in two weeks on Sunday, February 25, 2007 if that is acceptable.

Mr. Maxson suggested they measure with a laser or triangulate for the most accurate test and would consult with the Industrial Tower engineers for the best way to measure the actual height.

Mr. Parsons left the Planning Board meeting at 8:23 p.m. due to personal commitments.

MOTION by Mr. Hassinger, **SECOND** by Mr. McCarthy, to accept the applicant's written request to continue the public hearing to Sunday, February 25, 2007, between 9:00 a.m. and 5:00 p.m. **MOTION** carried unanimously 4 to 0.

**MODIFICATION OF DEFINITIVE APPROVAL – “CORTLAND MANOR”
SUBDIVISION – ART-LOT ACRES DEVELOPMENT CORPORATION
(APPLICANT/OWNER)**

Mr. McCarthy read the legal notice and Chairman Regan opened the public hearing at 8:28 p.m.

Present for the hearing was Brian MacEwen of Graz Engineering, Inc.

Mr. Bishop informed the Board that a letter had been received from Graz Engineering concerning the stability and continued monitoring of the slope at the end of Cider Mill Lane and there has been no change.

MOTION by Mr. McCarthy, **SECOND** by Mr. Chouinard, to close the public hearing. **MOTION** carried unanimously 4 to 0.

MOTION by Mr. McCarthy, **SECOND** by Mr. Chouinard, to grant the applicant's written request to extend the construction deadline for “Cortland Manor” Subdivision for one year. **MOTION** carried unanimously 4 to 0.

**ZBL 2007-1 CITIZEN PETITION ARTICLE FOR MAY, 2007 ANNUAL TOWN
MEETING – PROPOSED AMENDMENT TO THE GRAFTON ZONING BYLAW**

**- SECTION 3.2.3.1 "USE REGULATION SCHEDULE" UNDER
"COMMUNICATIONS, TRANSPORTATION AND PUBLIC UTILITIES"**

Mr. McCarthy read the legal notice and Chairman Regan opened the public hearing at 8:35 p.m.

Present for the hearing were Matthew Pearson, Manager of the Grafton Water District; and Robert Simms, Board of Water Commissioners.

Mr. Pearson informed the Board that the Water District had recently applied for a special permit to construct a water storage tank adjacent to an existing tank on Pigeon Hill Drive and was told by Robert Berger, Building Inspector/Zoning Enforcer that the use was not allowed in any zoning district. Mr. Pearson stated consequently they withdrew their application.

Mr. Pearson noted that if the zoning is not amended to allow the storage tank or any other future pumping facilities, the water service capacity for the Town will be in jeopardy and new future applications will be denied.

Mr. Pearson stated he is requesting the Planning Board to work with the Board of Selectmen to immediately facilitate the adoption of appropriate local zoning regulations that will allow the construction of the necessary facilities to enhance the water service to the Town of Grafton.

Chairman Regan asked Staff about the process required.

Mr. Bishop stated the Board could revise the language and that the Planning Board report would reflect what will be allowed.

MOTION by Mr. Hassinger, **SECOND** by Mr. Chouinard, to close the public hearing. **MOTION** carried unanimously.

MOTION by Mr. Hassinger, **SECOND** by Mr. Chouinard, to direct Mr. Bishop to draft suitable language for the Planning Board report. **MOTION** carried unanimously.

**"MISCOE FARMS" SUBDIVISION – POSSIBLE DEFAULT OF its
PERFORMANCE SECURED BY LENDER'S AGREEMENT – K. D. BUILDERS,
INC. (DEVELOPER)**

Chairman Regan opened the public hearing at 8:40 p.m.

There was no one present from K. D. Builders, Inc. or "Miscoe Farms" Subdivision at the public hearing.

Mr. Bishop noted the Board had decided to keep the record open for the hearing.

Mr. Hassinger noted the Board had voted to send a letter to the Town Administrator, Natalie Lashmit regarding Town Counsel and asked Mr. Bishop if a response had been received yet.

Mr. Bishop responded that no reply has been received to date, but that three finalists for the new Town Counsel had been selected and will be interviewed next week.

Mr. Hassinger reviewed the problems with dates on Attorney Cove's letter of reply and incorrect information.

Mr. Courchesne remarked that they should take Attorney Cove's advice, which may be inaccurate, and do the whole process again if necessary, documenting the lack of cooperation.

Mr. Hassinger noted the only alternative would be to go to the new counsel requested for advice and proceed from there.

MOTION by Mr. McCarthy, **SECOND** by Mr. Chouinard, to close the public hearing. **MOTION** carried unanimously 4 to 0.

Chairman Regan suggested a motion or action on the default status.

MOTION by Mr. Hassinger, **SECOND** by Mr. Chouinard, to table the default matter. **MOTION** carried unanimously 4 to 0.

Chairman Regan received unanimous consent to take **ACTION ITEM 2-A** next in order.

**ACTION ITEM 2-A – APPROVAL NOT REQUIRED PLAN (ANR 2007-3) –
GEORGE HILL ROAD – WILLIAM BERARDI, APPLICANT – ESTATE OF
LILLIAN LAMBERT, OWNER**

Mr. Bishop informed the Board he had done due diligence and spoken to Donald Schmidt about the ANR and there was nothing to cause the Planning Board not to sign the ANR plan, which meets all the requirements of an ANR submission.

Mr. Hassinger recused himself from voting due to a conflict of interest.

MOTION by Mr. Chouinard, **SECOND** by Mr. McCarthy, to approve ANR 2007-3 and authorize the Town Planner to sign the plan on behalf of the Planning Board. **MOTION** carried unanimously 3 to 0.

Chairman Regan received unanimous consent to take **ACTION ITEM 2-B** next in order.

**APPROVAL NOT REQUIRED PLAN (ANR 2007-4) – 27 MEADOWBROOK
ROAD – THOMAS & JUDITH OVERDORF, APPLICANT/OWNER**

MOTION by Mr. McCarthy, **SECOND** by Mr. Chouinard, to approve ANR 2007-4 and authorize the Town Planner to sign the plan on behalf of the Town Planner. **MOTION** carried unanimously 3 to 0.

Chairman Regan received unanimous consent to take **ACTION ITEM 2-C** next in order.

ACTION ITEM 2-C – REQUEST FOR DETERMINATION OF COMPLETENESS – “NORTH GRAFTON RIDGE” SUBDIVISION (A/K/A “WALNUT WOODS” SUBDIVISION – VALLEY VIEW DRIVE – TOLL BROTHERS, INC.(PETITIONER)

Mr. Courchesne recused himself due to a conflict of interest.

Present for Toll Brothers, Inc. was Bryan Weiner, Land Development Manager.

Mr. Weiner stated he had submitted color photographs of the area questioned by the Board as a water problem and believes the problem was fixed in the spring.

Chairman Regan requested the street sign be straightened prior to the Town's acceptance.

Mr. Hassinger requested the subdivision sidewalks be ADA compliant prior to the Town's acceptance of the subdivision. Mr. Hassinger also questioned Staff who was responsible to the ADA compliance of the subdivisions. Mr. Bishop stated he would check to see whose responsibility the compliance is.

Chairman Regan requested the Board's wish to do the Determination of Completeness in the middle of winter or to wait till spring when in general it is easier to see what's on the ground.

MOTION by Mr. Hassinger, **SECOND** by Mr. Chouinard, to make a determination that the subdivision is complete. **MOTION** carried unanimously 4 to 0 by roll call vote: Hassinger-aye; Chouinard-aye; Regan-aye; McCarthy-aye.

Mr. Weiner informed the Board that some of the homeowners were questioning the process for road acceptance and stated he would like a document from the Town to explain the process.

The Board told Mr. Weiner that he only needed to acquire the signatures of ten registered voters of the Town, and not necessarily the homeowners within the subdivision.

Chairman Regan received unanimous consent to take **ACTION ITEM 2-D** next in order.

ACTION ITEM 2-D – REQUEST FOR PLAN ENDORSEMENT – “BROOKMEADOW VILLAGE” DEFINITIVE PLAN – OFF PROVIDENCE ROAD & MILFORD ROAD – BROOKMEADOW VILLAGE, LLC (PETITIONER)

Present for Brookmeadow Village, LLC was Normand Gamache of Guerrierre & Halnon Engineering, Inc.

Mr. Bishop informed the Board they should have a packet of all items completed prior to endorsement for “Brookmeadow Village” subdivision, including certification from EOEA.

MOTION by Mr. Hassinger, **SECOND** by Mr. McCarthy, to endorse the “Brookmeadow Village” Definitive Plans on the recommendation of the Planner. **MOTION** carried unanimously 4 to 0.

Mr. Bishop noted the plans, consisting of 55 sheets, are available for endorsement in the Planning Office.

Mr. Gamache requested the Planning Board sign a previously endorsed ANR plan from the year 2005, which did not have a stamp on it at the time it was signed.

The Board requested Mr. Gamache refile the ANR plan and request a waiver of the application fee.

Chairman Regan received unanimous consent to take the **STAFF REPORT** next in order.

STAFF REPORT

Mr. Bishop updated the Board on the activity taking place at the “Ferry Ridge” subdivision site, stating that about one and one half homes had the rock removed and the area stabilized. Mr. Bishop stated they are still actively removing the material and hauling it offsite. Mr. Bishop noted they will be back before the Board on February 26, 2007.

DISCUSSION ITEM 3-A – FSGOD – DESIGN STANDARDS

Mr. Bishop stated he had just today received DHCD’s review of the Design Standards submitted by the Planning Board. Mr. Bishop noted the Board needs to review the changes to the language in the by-law and if approved along with the Design Standards, then must submit to the DHCD for approval. Mr. Bishop remarked that Donald Schmidt suggested the Board bring back the changes to Town Meeting to adopt to the Zoning By-law and to be accepted by DHCD.

Mr. Hassinger suggested handouts with edits for the Town Meeting and comments on the text adopted.

Mr. Bishop remarked that Don Schmidt informed him that the Design Standards have to be clear in what is stated, with a clearer definition of what you are talking about. Mr.

Bishop also added that they currently read as guidelines, but are definitely required to be standards that will need to be referenced to make it clear.

Chairman Regan received unanimous consent to take the Minutes of Previous Meetings next in order.

MINUTES OF PREVIOUS MEETINGS

MOTION by Mr. Hassinger, **SECOND** by Mr. McCarthy, to approve the open session minutes of January 22, 2007 as drafted. **MOTION** carried unanimously.

MOTION by Mr. McCarthy, **SECOND** by Mr. Chouinard, to approve the Executive Session minutes of January 22, 2007 as drafted, to be held in Confidential status until the matter is resolved. **MOTION** carried unanimously.

STAFF REPORT

6-A Determination on Grafton News legal notice fee – change check submission to Town of Grafton for invoice payment tracking. Mr. Bishop stated he wanted to inform the Board of a change in the payee for the legal notice fee submitted with the application. The check would now be make payable to the Town of Grafton rather than the Grafton News to better track the legal notice billing.

6-B Low Impact Development (LID) - Mr. Bishop informed the Board that there has been a change in the way Subdivisions are being looked at by municipalities with more decentralized stormwater facilities, narrower streets, etc.; and the realization that many municipalities will not be able to afford stormwater maintenance issues. Mr. Bishop stated a draft of a stormwater by-law will be forwarded to the Board when available.

6-C RBL Update – Mr. Bishop reviewed the upcoming RBL submittal schedule with the Board, stating they might be making their project plan submission by February 16th, by-passing the February 26th Planning Board meeting as too soon for adequate distribution, skipping the March 12th meeting due to the absence of the Town Planner, and probably looking to the March 26th meeting for the opening of the public meeting for the project plan review.

Mr. Bishop stated that both Conference Rooms A & B will be booked for this meeting.

Mr. Hassinger noted the Planning Board should consider televising the public meeting.

6-D Tourism Grant - Mr. Bishop informed the Board that they were found to be eligible to apply for \$100,000.00 through the Massachusetts Tourism Grant Program with relation to the projects at 1 Grafton Common and the South Grafton Community House.

Mr. Bishop also reminded the Board the Board of Selectmen would be having a South Grafton Master Plan Workshop on February 13, 2007 at 8:00 p.m.

Chairman Regan asked Mr. Bishop about the scheduling of a South Grafton Master Plan Workshop for the Board at some time also.

Chairman Regan recognized Samantha Hobson for the fine job she did with the Open Space and Recreation Forum at the Brigham Hill Community Barn.

MOTION by Mr. Hassinger, **SECOND** by Mr. McCarthy, to enter into Executive Session, returning to open session for the purpose of adjournment only. **MOTION** carried unanimously.


The Board entered Executive Session at 9:59 p.m.

EXECUTIVE SESSION

The Board returned to open session at 10:03 p.m.

MOTION by Mr. Hassinger, **SECOND** by Mr. McCarthy, to adjourn the meeting.
MOTION carried unanimously by roll call vote.

The meeting was adjourned at 10:04 p.m.



Richard McCarthy, Clerk